

TOUKLEY, 216-224 Main Road and 21 Rowland Terrace - 'Rustrum Site' Rezoning

Proposal Title : **TOUKLEY, 216-224 Main Road and 21 Rowland Terrace - 'Rustrum Site' Rezoning**

Proposal Summary : **The proposal seeks to enable development for a mixed use residential flat building and tourist apartment complex with ground floor commercial floorspace.
The proposed development is anticipated to provide 124 units (48 for tourist purposes and 76 for residential purposes).**

To facilitate the development on the land the following planning controls under Wyong LEP 2013 are proposed to be amended:

- rezone the land from SP3 Tourist and RE1 Public Recreation to B4 Mixed Use and RE1 Public Recreation;
- alter the Height of Building Map to apply to the B4 zoned land;
- increase the building height from 25m to 36m on the Key Sites Map;
- increase the Floor Space Ratio from 1.5:1 to 1.7:1 for the B4 zoned land;
- remove the application of the Foreshore Building Line and foreshore area identified on Foreshore Building Line Map.

PP Number : **PP_2015_WYONG_001_00** Dop File No : **15/01286**

Proposal Details

Date Planning Proposal Received :	30-Jan-2015	LGA covered :	Wyong
Region :	Hunter	RPA :	Wyong Shire Council
State Electorate :	WYONG	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	216-224 Main Road and 21 Rowland Terrace		
Suburb :	Toukley	City :	Postcode : 2263
Land Parcel :	Lots 2-4 DP406181, Lot 2 DP213097, Lot 5 DP514932, Lot 1DP213097 and Lot 91 DP565884		

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Peter Kavanagh**
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DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Central Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	76
Gross Floor Area :	0	No of Jobs Created :	42

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **Additional information was requested regarding delegations, supporting studies and confirmation on the application of clauses affected by the removal of the foreshore building line in Wyong LEP 2013. Council provided this information on 30 January 2015.**

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : Council states the objective of the planning proposal is to facilitate the concept 'Iconic Development' of an identified Key Site adjacent to Toukley Town Centre. The proposal would benefit from a concise statement which identifies the purpose (i.e to enable development for a residential flat building and tourist apartment complex with ground floor commercial floorspace).

The statement of objectives also includes discussion on:

- a land swap between Council and the proponent
- the anticipated final form of the development and concept sketches
- a proposed voluntary planning agreement and foreshore access

Although these are relevant matters they would be more appropriate in Part 3 Justification section of the planning proposal.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The planning proposal seeks to amend Wyong LEP 2013 by:

-rezoning the land from SP3 Tourist and RE1 Public Recreation to B4 Mixed Use and RE1 Public Recreation.

-Realigning the 16m maximum building height limit on the Height of Buildings Map so it applies to the proposed B4 zoned land. The proposed RE1 land will not contain a mapped maximum building height.

- increasing the height limit on the the Key Sites Map from 25m to 36m and realign it so it applies to the B4 zoned land. (The Key Sites Map permits an additional height bonus for development proposals that utilise Clause 7.11 Development requiring the preparation of a development control plan (key sites)).

- increasing the maximum floor space ratio from 1.5:1 to 1.7:1 in Area 2 on the Floor Space Ratio Map for the B4 zoned land. (Area 2 permits an additional floor space ratio bonus of up to 20% for sites of 4000m2 or more).

- remove the application of the Foreshore Building Line (FBL) and foreshore area identified on the Foreshore Building Line Map for the site.

The amendments proposed are required to enable the proposed development. The rezoning is required as residential flat buildings are not permissible in the SP3 zone. The B4 zone would also allow more flexibility given the proposal involves permanent residential, tourist accommodation and retail/commercial premises.

Generally the amendments proposed are supported. Lot 1 DP213097 (Council Park) is included in the planning proposal however no changes are proposed to the zone or development standards. Council should consider deletion of this lot from the planning proposal or provide justification for its inclusion.

FORESHORE BUILDING LINE

Council states most privately owned land adjacent to the ocean or lake foreshore is affected by the FBL apart from the adjacent Beachcomber Hotel. Council considers the removal of the FBL on the development site would be consistent with the adjoining Beachcomber Hotel, however it would also be inconsistent with the other private lands that are subject to the application of the FBL.

The removal of the FBL from the land would remove consideration of Clause 7.5 'Limited development on the foreshore' which ensures development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.

Council has advised Clause 7.6 'Development on the foreshore must ensure access' would still need to be addressed at the DA stage. This appears to be an error as clause Clause 7.6 still relates to development in the 'foreshore area'. Given the proposal seeks to remove the FBL and foreshore area from the development site there would be no requirement to consider clause 7.5 or clause 7.6 for future DAs.

Council has reconsidered the application of the clauses and clarified they would not apply to the development site.

The planning proposal should be updated to include discussion on:

- those clauses affected by the removal of the FBL and how this affects future development on the site, and
- justification on why the removal of these clauses is supported given other private landowners in the vicinity would still be affected by the FBL.

It is noted Council states it will remove public access requirements from the Rustrum Site identified in its Key Sites DCP subject to the Voluntary Planning Agreement with the proponent (which provides for 1.5 x the applicable Section 94 Contributions and upgrades to Toukley Gardens and provision of a pathway to the foreshore at Osborne Park). Council should clarify if this provision of a significant public benefit is linked to the removal of the FBL.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 3.1 Residential Zones**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.2 Mine Subsidence and Unstable Land**
- 4.3 Flood Prone Land**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**

Is the Director General's agreement required? **Unknown**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

- SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)**
- SEPP No 55—Remediation of Land**
- SEPP No 65—Design Quality of Residential Flat Development**
- SEPP No 71—Coastal Protection**

e) List any other matters that need to be considered :

SEPP No 55—Remediation of Land

Council has advised an initial contamination assessment was conducted and found no evidence of fill or potential contamination. Council should satisfy itself the land is suitable for the land use proposed under the requirements of the SEPP and information regarding land contamination is to be included in public exhibition.

SEPP No 71—Coastal Protection

The land is located on land within the coastal zone and is also identified as a sensitive coastal location. Council should update the planning proposal to include consideration of all clause 8 matters before public exhibition.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

S117 DIRECTIONS

The planning proposal is consistent with all S117 Directions or they are not applicable except where discussed below:

1.3 Mining, Petroleum Production and Extractive Industries

The land subject to the planning proposal is underlain by coal resources. Council should consult with Trade & Investment - Resources and Energy to ensure the potential development of coal resources are not restricted by land uses that are likely to be incompatible with such development before consistency with the direction can be determined.

2.2 Coastal Protection

The proposal is located on land within the coastal zone and is also identified as a sensitive coastal location in SEPP 71. The site is also subject to provisions in Wyong LEP 2013 (Cl.7.5 and 7.6) which will no longer apply when the FBL is removed and will remove public access considerations to the foreshore. The Direction requires consistency with the NSW Coastal Policy and Coastal Design Guidelines both of which seek to promote public access to the foreshore and the planning proposal is therefore inconsistent with the Direction. Council is required to address the inconsistency and demonstrate why the inconsistency is of minor significance by seeking the Secretary's agreement under the terms of the direction.

3.2 Caravan Parks and Manufactured Home Estates

The rezoning from SP3 to B4 will prohibit caravan parks on the land and is inconsistent with the Direction as the proposal does not retain provisions to permit development for caravan parks. Council has not justified the inconsistency however the inconsistency is considered to be of minor significance as the site is currently vacant and caravan parks are permissible in a number of other zones in Wyong LEP 2013 (i.e. R1, R3, SP3, RE1 and RE2).

4.1 Acid Sulfate Soils

The site is located on land with a probability of containing acid sulfate soils and is identified in Council's Acid Sulfate Soils Map (Class 5 and adjacent to Class 1). Council considers these are matters that will be addressed at the DA stage. The inconsistency needs to be justified by a study or is of minor significance. The Acid Sulfate Assessment Preliminary Report provided is from 2008 and relates to a development for Seniors Living and is based on the tonnage of excavated material. Wyong LEP 2013 contains provisions to regulate development on land containing acid sulfate soils and can be addressed at the development application stage. The Secretary could agree the inconsistency is of minor significance.

4.2 Mine Subsidence and Unstable Land

The land is identified in the Swansea North Entrance Mine Subsidence District therefore consultation with the Mine Subsidence Board will need to occur before consistency with the direction can be determined.

4.3 Flood Prone Land

Council has advised that part of the land is classified as Flood Prone and considers the proposal is consistent with the direction. However the proposal seeks to rezone land from a Special Purpose zone to a Business Zone and is inconsistent with the direction. Council has not demonstrated whether the proposal is in accordance with a floodplain risk management plan or of minor significance and will require the agreement of the Secretary for the inconsistency prior to the plan being made.

6.2 Reserving Land for Public Purposes

Council seeks to swap land with the proponent and zone the land RE1 Public Recreation and would alter the land for public purposes. The alteration would result in community benefits including improved pedestrian and cycle access to the foreshore of Budgewoi Lake adjacent to the development site. The Secretary should agree to alteration of land for public purposes.

6.3 Site Specific Provisions

The proposal seeks to amend an existing height specific provision development standard on the Key Sites Map to enable the development proposal and is therefore inconsistent with the direction. The inconsistency is a minor change to an existing site specific provision. The inconsistency is considered to be of minor significance as the Key Sites clause (clause 7.11) was included in the approval of Wyong LEP 2013 by the former Director General and is a minor change to an existing site specific provision.

The proposal also contains sketch drawings of the potential development on the site and is inconsistent with the terms of the Direction. The inconsistency is considered to be of minor significance given these are concept sketches and will aid community understanding of the potential future development on this Key site.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Council has provided proposed Zoning, Foreshore Building Line, Floor Space Ratio, Height Of Buildings and Key Sites Maps. No maps have been provided showing the existing controls and Council should ensure this occurs prior to public exhibition.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed a 28 day exhibition period. This is supported.**

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **Delegations**
Council has advised it has not resolved its position in regard to seeking delegations. Given the planning proposal is of local significance it is recommended Council be granted delegations to make the plan.

Timeline
Council anticipates the LEP will be made in October 2015 (approximately 10 months). Council has stated it plans to exhibit a VPA and draft site specific development control plan in addition to the planning proposal. A 12 month timeframe is recommended.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The planning proposal seeks to amend Wyong LEP 2013.**

Assessment Criteria

Need for planning proposal : **The land is identified in the Toukley Planning Strategy for residential and tourist purposes and is identified as an Iconic Site in the Toukley Masterplan. Both documents identified options to link the Council owned Toukley Gardens, located adjacent to the site, with Rowland Terrace and the foreshore of Budgewoi Lake. Council has advised it proposes to engage in a land swap as well as public domain improvements agreed with the proponent**

Consistency with strategic planning framework :

through a Voluntary Planning Agreement which will result in better pedestrian and cycle access from Toukley Town Centre to the public reserves on Budgewoi Lake. The proposal is generally consistent with Council's Toukley Planning Strategy and the Toukley Masterplan.

Council has identified the following strategic plans:

CENTRAL COAST REGIONAL STRATEGY (CCRS)

Council has reviewed a number of actions in the CCRS and considers the proposal has addressed actions related to:

- providing a mix of housing types adjacent to centres;
- jobs close to home;
- employment self containment;
- improve provision of open space;
- manage the impact of tourist facilities on natural resources.

Generally the proposal is consistent with the broad goals and actions of the CCRS and will assist in meeting regional dwelling and employment targets.

COMMUNITY STRATEGIC PLAN (CSP)

Council has reviewed the planning proposal against eight priority objectives in its CSP and is generally consistent with the relevant objectives.

Environmental social economic impacts :

ENVIRONMENTAL

Council has advised there are no threatened species, EECs or their habitats that will be adversely affected by the proposal. The site is located in a sensitive coastal location and Council seeks to remove the application of Clauses 7.5 and 7.6 (additional considerations related to coastal development) in Wyong LEP 2013. Council has identified it seeks to consult with the Office of Environment and Heritage and this is supported.

SOCIAL

Council anticipate the public domain improvements associated with the development will positively contribute to the Toukley community.

ECONOMIC

The proposal, should it be developed, would provide 76 residential units and 48 units for tourist accommodation. A Preliminary Economic and Employment Assessment prepared in support of the planning proposal indicated 42 full time jobs would be created. Overall the proposal is expected to create positive economic benefits.

INFRASTRUCTURE

Council has advised the site is located on Main Road and is well serviced by a privately operated bus service and footpath connection to the Toukley Town Centre. Given the potential increase in traffic as a result of the development consultation should occur with the Roads and Maritime Service. Council has identified the land is serviced with water, sewerage and drainage infrastructure and electricity.

PUBLIC AUTHORITY CONSULTATION

Council identified consultation with NSW Planning and Environment however clarified this was included in error in the planning proposal.

TOUKLEY, 216-224 Main Road and 21 Rowland Terrace - 'Rustrum Site' Rezoning**Assessment Process**

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage
Department of Trade and Investment
Transport for NSW - Roads and Maritime Services
Other**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal - Rustrum Site.pdf	Proposal	Yes
S117 Directions.pdf	Proposal	Yes
Project Timeline.pdf	Proposal	Yes
Proposed Land Zoning Map.pdf	Proposal	Yes
Proposed Floor Space Ratio Map.pdf	Proposal	Yes
Proposed Height of Buildings Map.pdf	Proposal	Yes
Proposed Key Sites Map.pdf	Proposal	Yes
Proposed Foreshore Building Line Map.pdf	Proposal	Yes
Council Report.pdf	Proposal	Yes
2015 01 30 Additional Information Email.pdf	Proposal	Yes
2015 01 30 Attachment 2 Council Report 25 June 2014.pdf	Proposal	Yes
2015 01 30 Attachment 3 Mean High Watermark Survey.pdf	Proposal	Yes
2015 01 30 Attachment 4 Analysis of Concept Against LEP Provisions.pdf	Proposal	Yes
2015 01 30 Attachment 5 Acid Sulphate Soils Management Plan.pdf	Proposal	Yes
2015 01 30 Attachment 6 Initial Contamination Assessment.pdf	Proposal	Yes

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2015 01 30 Attachment 7 Shadow Diagrams for Building Envelope.pdf	Proposal	Yes
2015 01 30 Attachment 8 Economic Feasibility Assessment.pdf	Proposal	Yes
2015 02 06 Employment and Economic Impact Assessment.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.2 Mine Subsidence and Unstable Land
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes

Additional Information : **The Planning Proposal should proceed subject to the following conditions:**

1. Council update the planning proposal prior to community consultation to:

a) include a concise statement which identifies the purpose of the Planning Proposal in the 'Objectives or Intended Outcomes'.

b) relocate the discussion on the land swap, anticipated final form of the development and the Voluntary planning agreement/foreshore access from the 'Objectives or Intended Outcomes' to the 'Justification' Section of the Planning Proposal.

c) consider deleting Lot 1 DP213097 (Council Park) from the planning proposal or provide justification for its inclusion.

d) include discussion and justification for the removal of the Foreshore Building Line and foreshore area including the application and effect on Clauses 7.5 and 7.6 of Wyong LEP 2013.

e) include existing zoning and development standards maps.

2. The Secretary agrees the planning proposal's inconsistencies with S117 Directions 3.2 Caravan Parks and Manufactured Home Estates and 4.1 Acid Sulfate Soils and 6.3 Site Specific Provisions are of minor significance.

3. In relation to S117 Direction 6.2 Reserving Land for Public Purposes the Secretary agrees to the alteration of land for public purposes.

4. Council is to update the planning proposal to include sufficient information to adequately demonstrate consistency or justify any inconsistency with the following S117 Directions:

- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.2 Coastal Protection
- 4.2 Mine Subsidence and Unstable Land
- 4.3 Flood Prone Land

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5. Council is to satisfy the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land and demonstrate the site is suitable for rezoning.

6. Council should include consideration of clause 8 State Environmental Planning Policy (SEPP 71) - Coastal Protection and update the planning proposal accordingly before community consultation.

7. The planning proposal be made publicly available for a minimum of 28 days.

8. Consultation with:

- Office of Environment and Heritage
- NSW Trade and Investment - Resources and Energy
- Transport for NSW - Roads and Maritime Services
- Mine Subsidence Board

9. 12 months timeframe to make the plan.

10. Plan-making delegation should be delegated to Council for this planning proposal.

Supporting Reasons :

*

Signature:



Printed Name:

G P HOPKINS

Date:

9.2.2015